

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Harrisonburg Division

IN RE:

CHARLES WILLIAM REYNOLDS

Debtor

Chapter 7

Case No. 16-51200-RBC

SPECIALIZED LOAN SERVICING, LLC

Movant

v.

CHARLES WILLIAM REYNOLDS  
1561 CARPERS PIKE  
WINCHESTER, VA 22637  
(Debtor)

W. STEPHEN SCOTT  
PO BOX 1312  
CHARLOTTESVILLE, VA 22902  
(Trustee)

Respondents

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

Specialized Loan Servicing, LLC (“Movant”), by undersigned counsel, respectfully moves this Honorable Court to terminate the Automatic Stay as to the real property located at 1561 Carpers Pike, Winchester, VA 22603 (“Property”) and, as grounds therefore, states as follows:

1. This proceeding seeking relief under 11 U.S.C. § 362(d) is a contested matter within the meaning of Fed. R. Bankr. P. 4001 and 9014, and this court has jurisdiction over this

Hugh Green, Esq., Bar # 86687  
Kathryn Smits, Esq., Bar # 77337  
Heather D. McGivern, Esq., Bar # 91767  
PO Box 2548  
Leesburg, VA 20177  
(703) 777-7101

matter pursuant to 28 U.S.C. § 157. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G) and (b)(2)(O). Venue is proper pursuant to 28 U.S.C. § 1409(a).

2. On December 23, 2016, the above named Debtor, Charles William Reynolds (“Debtor”), filed in this court a Petition under Chapter 13 of the United States Bankruptcy Code. Herbert L. Beskin was appointed Chapter 13 Trustee. On June 14, 2019, the case was converted from Chapter 13 to a Chapter 7 and W. Stephen Scott was appointed the Chapter 7 Trustee.

3. On or about October 5, 2005, Charles W. Reynolds and Shawn M Reynolds (collectively the “Obligors”) executed and delivered to Wells Fargo Bank, N.A. a Note in the amount of TWO HUNDRED FORTY-FIVE THOUSAND SIX HUNDRED DOLLARS AND NO CENTS (\$245,600.00) plus interest at the fixed rate of 6.125% per annum, to be paid over thirty (30) years. A copy of the Note is attached as **Exhibit A** and incorporated herein.

4. To secure the repayment of the sums due under the Note, Charles W. Reynolds and Shawn M Reynolds executed and delivered to Wells Fargo Bank, N.A. a Deed of Trust dated October 5, 2005, encumbering the real property (“Property”) more particularly described in the Deed of Trust as,

**All of that certain tract or parcel of land, together with all rights, rights of way, improvements thereon and appurtenances thereunto belonging, lying and being situate about sixteen (16) miles west of Winchester, in Back Creek Magisterial District, Frederick County, Virginia, containing 1.420 acres as described on plat and survey prepared by L. Allen Ebert, L.S., dated June 28, 1990, recorded in the Office of the Clerk of the Circuit Court of Frederick County, Virginia, in Deed Book 748, at Page 1159; AND BEING the same property conveyed to Charles W. Reynolds and Shawn M. Reynolds, husband and wife, by Deed from Charles A. Reynolds and Phyllis E. Reynolds dated May 30, 2003, recorded in the Office of the Clerk of the Circuit Court of Frederick County, Virginia, as Instrument No. 030011927.**

which has the address of 1561 Carpers Pike, Winchester, VA 22603. A copy of the Deed of Trust is attached as **Exhibit B** and incorporated herein.

5. The Note and Deed of Trust were later transferred to Movant and Movant is the current holder of the Note and Deed of Trust. A copy of the Assignment is attached as **Exhibit C** and incorporated herein.

6. Specialized Loan Servicing, LLC services the loan on the Property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Movant or Movant's successor or assignee. Movant, directly or through an agent, has possession of the Note. The Note is either made payable to Movant or has been duly endorsed. Movant is the original mortgagee or beneficiary or the assignee of the Mortgage/Deed of Trust.

7. The Debtor agreed to a permanent modification of the loan described above. The loan modification is attached as **Exhibit D** and incorporated herein.

8. As of August 14, 2019, the Debtor owes an unpaid principal balance of \$170,733.02 under the Note, plus additional accruing interest, late charges, attorneys' fees and costs.

9. As of August 14, 2019, Debtor is contractually due for July 1, 2019, which includes the following missed payments:

Number of Missed Payments	From	To	Payment Amount	Total Due
2	July 1, 2019	August 1, 2019	\$1,113.72	\$2,227.44
Suspense:				(\$0.00)
Total Payments Past Due				\$2,227.44

10. The value of the property is \$174,000.00, according to the Debtor's Schedule "A".

11. The Debtor is in default under the Note.

12. The Debtor has not and cannot offer Specialized Loan Servicing, LLC any adequate protection of its interest in the Property, and Specialized Loan Servicing, LLC avers it is not adequately protected.

13. As there is little to no equity in the Property, the Property is not necessary for an effective reorganization. Therefore, relief from stay is appropriate under § 362(d)(2) of the Bankruptcy Code to permit Movant to exercise its non-bankruptcy rights and remedies with respect to the Mortgage.

14. That the Debtor's account delinquency and lack of equity in the Property constitute cause for relief from the automatic stay.

WHEREFORE, Specialized Loan Servicing, LLC prays that this Court issue an order terminating or modifying the Automatic Stay under 11 U.S.C. § 362, as to the property located at 1561 Carpers Pike, Winchester, VA 22603, and granting the following:

a. Relief from the Automatic Stay allowing Movant to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property and/or allowing Movant, through its agents, servicers and representatives to contact Debtor and/or Debtor's counsel for the purpose of engaging in discussions and consideration for possible loss mitigation options, solutions and/or resolutions with regard to the underlying mortgage and note, including, but not limited to loan modification, deed in lieu or other loss mitigation alternatives.

- b. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.
- c. That the 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived.
- d. For such other relief as the Court deems proper.

Date: 8/22/2019

Respectfully submitted,

/s/ Heather D. McGivern

Hugh Green, Bar #86687

Kathryn Smits, Bar #77337

Heather D. McGivern, Bar #91767

Orlans PC

PO Box 2548

Leesburg, VA 20177

(703) 777-7101

Attorneys for Specialized Loan Servicing, LLC

hgreen@orlans.com

ksmits@orlans.com

hmcgivern@orlans.com

**CERTIFICATE OF SERVICE**

The undersigned states that on August 22, 2019, copies of the foregoing Motion for Relief from Automatic Stay were filed with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

W. Stephen Scott  
PO Box 1312  
Charlottesville, VA 22902  
wsscott7trustee@earthlink.net  
*Bankruptcy Trustee*

Eryk Gabhran Boston  
Boston Law Firm  
125 Country Park Drive  
Winchester, VA 22602  
law@winchesterlawyer.us  
*Debtor's Attorney*

and I hereby certify that I have caused to be mailed by first class mail, postage prepaid, copies of the foregoing Motion for Relief from Automatic Stay to the following non-ECF participants:

Charles William Reynolds  
1561 Carpers Pike  
Winchester, VA 22637  
*Debtor*

/s/ Heather D. McGivern  
Hugh Green, Esquire  
Kathryn Smits, Esquire  
Heather D. McGivern, Esquire

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(Trustee)

Respondents

**NOTICE OF MOTION**

Please take notice that Specialized Loan Servicing, LLC, by counsel, will argue its Motion for Relief from Automatic Stay on October 16, 2019, at 10:00 AM or as soon as counsel may be heard, in the United States Bankruptcy Court for the Western District of Virginia, Harrisonburg Division, 116 N. Main St., Harrisonburg, VA 22802 before the Honorable Rebecca B. Connelly.

Hugh Green, Esq., Bar # 86687  
Kathryn Smits, Esq., Bar # 77337  
Heather D. McGivern, Esq., Bar # 91767  
PO Box 2548  
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Date: 8/22/2019

Respectfully submitted,

/s/ Heather D. McGivern

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Leesburg, VA 20177

(703) 777-7101

Attorneys for Specialized Loan Servicing, LLC

hgreen@orlans.com

ksmits@orlans.com

hmcgivern@orlans.com



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W. Stephen Scott  
PO Box 1312  
Charlottesville, VA 22902  
wsscott7trustee@earthlink.net  
*Bankruptcy Trustee*

Eryk Gabhran Boston  
Boston Law Firm  
125 Country Park Drive  
Winchester, VA 22602  
law@winchesterlawyer.us  
*Debtor's Attorney*

and I hereby certify that I have caused to be mailed by first class mail, postage prepaid, copies of the foregoing Notice of Motion to the following non-ECF participants:

Charles William Reynolds  
1561 Carpers Pike  
Winchester, VA 22637  
*Debtor*

\_\_\_\_\_  
/s/ Heather D. McGivern  
Hugh Green, Esquire  
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Heather D. McGivern, Esquire

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(Trustee)

Respondents

**ORDER TERMINATING AUTOMATIC STAY PURSUANT TO 11 USC § 362**

Hugh Green, Esq., Bar # 86687  
Kathryn Smits, Esq., Bar # 77337  
Heather D. McGivern, Esq., Bar # 91767  
PO Box 2548  
Leesburg, VA 20177  
(703) 777-7101

UPON CONSIDERATION of the Motion for Relief from Automatic Stay (“Motion”) filed by Specialized Loan Servicing, LLC, and any response thereto, and good cause having been shown, it is hereby

**ORDERED**, that the Motion be, and the same is hereby GRANTED; and it is further

**ORDERED** that the Automatic Stay imposed by 11 U.S.C. § 362 is modified to permit the Specialized Loan Servicing, LLC to enforce the lien of its Deed of Trust as it pertains to the real property located at 1561 Carpers Pike, Winchester, VA 22603 and it is more particularly described as follows:

**All of that certain tract or parcel of land, together with all rights, rights of way, improvements thereon and appurtenances thereunto belonging, lying and being situate about sixteen (16) miles west of Winchester, in Back Creek Magisterial District, Frederick County, Virginia, containing 1.420 acres as described on plat and survey prepared by L. Allen Ebert, L.S., dated June 28, 1990, recorded in the Office of the Clerk of the Circuit Court of Frederick County, Virginia, in Deed Book 748, at Page 1159; AND BEING the same property conveyed to Charles W. Reynolds and Shawn M. Reynolds, husband and wife, by Deed from Charles A. Reynolds and Phyllis E. Reynolds dated May 30, 2003, recorded in the Office of the Clerk of the Circuit Court of Frederick County, Virginia, as Instrument No. 030011927.**

which relief shall extend to the purchaser to take such action under state law, as may be necessary, to obtain possession of the property; and it is further

**ORDERED**, that Relief from Automatic Stay is granted, allowing Movant to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property and/or allowing Movant, through its agents, servicers and representatives to contact Debtor and/or Debtor's counsel for the purpose of engaging in discussions and consideration for possible loss mitigation options, solutions and/or resolutions

with regard to the underlying mortgage and note, including, but not limited to loan modification, deed in lieu or other loss mitigation alternatives; and it is further

**ORDERED** that this Order is binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code; and it is further

**ORDERED** that this Order is immediately effective and is not stayed by operation of law, notwithstanding the stay provisions of Fed. R. Bankr. P. 4001(a)(3).

**\*\*END OF ORDER\*\***

Date: \_\_\_\_\_

I ASK FOR THIS:

/s/ Heather D. McGivern  
Hugh Green, Bar #86687  
Kathryn Smits, Bar #77337  
Heather D. McGivern, Bar #91767  
hgreen@orlans.com  
ksmits@orlans.com  
hmcgivern@orlans.com  
Orlans PC  
PO Box 2548  
Leesburg, VA 20177  
(703) 777-7101

SEEN:

\_\_\_\_\_  
Eryk Gabhran Boston, Esquire  
Boston Law Firm  
125 Country Park Drive  
Winchester, VA 22602  
Attorney for the Debtor

\_\_\_\_\_

W. Stephen Scott Trustee  
PO Box 1312  
Charlottesville, VA 22902

Copies to:

Hugh Green  
Kathryn Smits  
Heather D. McGivern  
Orlans PC  
PO Box 2548  
Leesburg, VA 20177  
*Attorneys for the Movant*

Charles William Reynolds  
1561 Carpers Pike  
Winchester, VA 22637  
*Debtor*

Eryk Gabhran Boston, Esquire  
Boston Law Firm  
125 Country Park Drive  
Winchester, VA 22602  
*Attorney for the Debtor*

W. Stephen Scott  
PO Box 1312  
Charlottesville, VA 22902  
*Chapter 7 Trustee*

**CERTIFICATE OF SERVICE**

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W. Stephen Scott  
PO Box 1312  
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wsscott7trustee@earthlink.net  
*Bankruptcy Trustee*

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